

HOUSE BILL No. 1020

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10; IC 3-11; IC 3-12-1; IC 3-13.

Synopsis: Vacancies; voting. Removes a voter's option to vote for all candidates of a political party or an independent ticket at one time (straight ticket voting) in a general or municipal election, except for candidates for presidential electors. Provides that a legislative vacancy is filled by a special election if the vacancy occurs at a time other than during the final year of the legislative term. Provides that a legislative vacancy that occurs during the last year of the legislative term shall be filled by a caucus of the precinct committeemen from the legislative district of the political party of the individual who last held the vacant legislative office (as is the case under current law). Provides that the caucus of precinct committeemen may determine not to fill the vacancy. Makes conforming changes. Repeals superseded statutes relating to straight ticket voting.

Effective: July 1, 2016; January 1, 2017.

Ober

January 5, 2016, read first time and referred to Committee on Elections and Apportionment.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1020

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-10-7-32, AS AMENDED BY P.L.190-2011,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2017]: Sec. 32. (a) A town election board shall
4 determine what voting method will be used in a municipal election.
5 (b) The town election board and its precinct election officers shall
6 perform the duties of the county election board and its precinct election
7 officers under IC 3-11 for each voting method used.
8 (c) The town election board shall prepare the ballots in the form
9 prescribed by IC 3-11 and distribute them to the precincts in the town.
10 (d) This subsection applies only to paper ballots. Notwithstanding
11 subsection (c), the town election board, by unanimous consent of the
12 board's entire membership, may authorize the printing or reproduction
13 of ballots on equipment under the control of the town clerk-treasurer.
14 If the town election board acts under this subsection, the ballots are not
15 required to conform to the precise dimensions concerning the size of
16 political party devices under IC 3-11-2-9 or the placement of a
17 candidate's name under ~~IC 3-11-2-10(f)~~ **IC 3-11-2-10(d)**. However,



the ballots must otherwise substantially conform with IC 3-11-2.

SECTION 2. IC 3-10-8-1, AS AMENDED BY P.L.219-2013, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. A special election shall be held in the following cases:

(1) Whenever two (2) or more candidates for a federal, state, legislative, circuit, or school board office receive the highest and an equal number of votes for the office, except as provided in Article 5, Section 5 of the Constitution of the State of Indiana or in IC 20.

(2) Whenever a vacancy occurs in the office of United States Senator, as provided in IC 3-13-3-1.

(3) Whenever a vacancy occurs in the office of United States Representative unless the vacancy occurs less than seventy-four (74) days before a general election.

(4) Whenever a vacancy occurs in any local office the filling of which is not otherwise provided by law.

(5) Whenever required by law for a public question.

(6) Whenever ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18.

(7) Whenever required under ~~IC 3-13-5~~ **IC 3-13-5.5** to fill a vacancy in a legislative office. ~~unless the vacancy occurs less than seventy-four (74) days before a general election.~~

SECTION 3. IC 3-11-2-10, AS AMENDED BY P.L.219-2013, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 10. (a) Public questions shall be placed on the general election ballot in the following order after the statement described in section 7 of this chapter, and the instructions described in ~~subsections (d) and (e)~~ **subsection (c)** and section 8 of this chapter:

(1) Ratification of a state constitutional amendment.

(2) Local public questions.

Each public question shall be placed in a separate column on the ballot.

(b) The name or title of the political party or independent ticket described in section 6 of this chapter shall be placed on the general election ballot after the public questions described in subsection (a). The device of the political party or independent ticket shall be placed immediately under the name of the political party or independent ticket. ~~The instructions for voting a straight party ticket shall be placed to the right of the device.~~

(c) ~~The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (insert political party name)~~



1 candidates on this ballot; make a voting mark on or in this circle and do
 2 not make any other marks on this ballot. If you wish to vote for a
 3 candidate seeking a nonpartisan office or on a public question; you
 4 must make another voting mark on the appropriate place on this
 5 ballot."

6 (d) If the ballot contains an independent ticket described in section
 7 6 of this chapter and at least one (1) other independent candidate; the
 8 ballot must also contain a statement that reads substantially as follows:
 9 "A vote cast for an independent ticket will only be counted for the
 10 candidates for President and Vice President or governor and lieutenant
 11 governor comprising that independent ticket. This vote will NOT be
 12 counted for any OTHER independent candidate appearing on the
 13 ballot."

14 (e) (c) The ballot must also contain a statement that reads
 15 substantially as follows: "A write-in vote will NOT be counted unless
 16 the vote is for a DECLARED write-in candidate. To vote for a write-in
 17 candidate, you must make a voting mark on or in the square to the left
 18 of the name you have written in or your vote will not be counted."

19 (f) (d) The list of candidates of the political party shall be placed
 20 immediately under the ~~instructions for voting a straight party ticket.~~
 21 **device of the political party.** The names of the candidates shall be
 22 placed three-fourths (3/4) of an inch apart from center to center of the
 23 name. The name of each candidate must have, immediately on its left,
 24 a square three-eighths (3/8) of an inch on each side.

25 (g) (e) The circuit court clerk may authorize the printing of ballots
 26 containing a ballot variation code to ensure that the proper version of
 27 a ballot is used within a precinct.

28 SECTION 4. IC 3-11-7-4, AS AMENDED BY P.L.219-2013,
 29 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JANUARY 1, 2017]: Sec. 4. (a) A ballot card voting system must
 31 permit a voter to vote

32 (1) ~~except at a primary election; a straight party ticket for all of~~
 33 ~~the candidates of one (1) political party by a single mark on each~~
 34 ~~ballot card;~~

35 (2) for one (1) or more candidates of each political party or
 36 independent candidates, or for one (1) or more school board
 37 candidates nominated by petition.

38 (3) a split ticket for the candidates of different political parties
 39 and for independent candidates; or

40 (4) a straight party ticket and then split that ticket by casting
 41 individual votes for candidates of another political party or
 42 independent candidate.



(b) A ballot card voting system must permit a voter to vote:

(1) for all candidates for presidential electors of a political party or an independent ticket by making a single voting mark; and

(2) for or against a public question on which the voter may vote.

SECTION 5. IC 3-11-7-6 IS REPEALED [EFFECTIVE JANUARY 1, 2017]. Sec. 6. A ballot card voting system must count a ballot in accordance with IC 3-12-1-7 when a voter votes a straight ticket vote and votes for individual candidates as described by IC 3-12-1-7.

SECTION 6. IC 3-11-7.5-10, AS AMENDED BY P.L.219-2013, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 10. (a) An electronic voting system must permit a voter to vote

(1) except at a primary election, a straight party ticket for all the candidates of one (1) political party by touching the device of that party;

(2) for one (1) or more candidates of each political party or independent candidates, or for one (1) or more school board candidates nominated by petition.

(3) a split ticket for the candidates of different political parties and for independent candidates; or

(4) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidates.

(b) An electronic voting system must permit a voter to vote:

(1) for as many candidates for an office as the voter may vote for, but no more;

(2) for or against a public question on which the voter may vote, but no other; and

(3) for all the candidates for presidential electors of a political party or an independent ticket by making a single voting mark.

SECTION 7. IC 3-11-11-10 IS REPEALED [EFFECTIVE JANUARY 1, 2017]. Sec. 10. If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may make a voting mark on or in a large circle enclosing the device and before the name under which the candidates of the party or group of petitioners are printed. The voter's vote shall then be counted for all the candidates under that party name or for the two (2) candidates comprising an independent ticket.

SECTION 8. IC 3-11-13-11, AS AMENDED BY P.L.194-2013, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 11. (a) The ballot information, whether



placed on the ballot card or on the marking device, must be in the order of arrangement provided for ballots under this section.

(b) Each county election board shall have the names of all candidates for all elected offices, political party offices, and public questions printed on a ballot card as provided in this chapter. The county may:

(1) print all offices and questions on a single ballot card; and

(2) include a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

(c) Each type of ballot card must be of uniform size and of the same quality and color of paper (except as permitted under IC 3-10-1-17).

(d) The nominees of a political party or an independent candidate or independent ticket (described in IC 3-11-2-6) nominated by petitioners shall be listed on the ballot with the name and device set forth on the certification or petition. The circle containing the device may be of any size that permits a voter to readily identify the device. IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The offices and public questions on the general election ballot must be placed on the ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a), IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). The offices and public questions may be listed in a continuous column either vertically or horizontally and on a number of separate pages.

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate:

(1) "Vote for one (1) only.", if only one (1) candidate is to be elected to the office.

(2) "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office.", if more than one (1) candidate is to be elected to the office.

(g) Below the name of the office and the statement required by subsection (f), the names of the candidates for each office must be grouped together in the following order:

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election is listed first.

(2) The major political party whose candidate received the second



- 1 highest number of votes in the county for secretary of state is
- 2 listed second.
- 3 (3) All other political parties listed in the order that the parties'
- 4 candidates for secretary of state finished in the last election are
- 5 listed after the party listed in subdivision (2).
- 6 (4) If a political party did not have a candidate for secretary of
- 7 state in the last election or a nominee is an independent candidate
- 8 or independent ticket (described in IC 3-11-2-6), the party or
- 9 candidate is listed after the parties described in subdivisions (1),
- 10 (2), and (3).
- 11 (5) If more than one (1) political party or independent candidate
- 12 or ticket described in subdivision (4) qualifies to be on the ballot,
- 13 the parties, candidates, or tickets are listed in the order in which
- 14 the party filed its petition of nomination under IC 3-8-6-12.
- 15 (6) A space for write-in voting is placed after the candidates listed
- 16 in subdivisions (1) through (5), if required by law.
- 17 (7) The name of a write-in candidate may not be listed on the
- 18 ballot.
- 19 (h) The names of the candidates grouped in the order established by
- 20 subsection (g) must be printed in type with uniform capital letters and
- 21 have a uniform space between each name. The name of the candidate's
- 22 political party, or the word "Independent" if the:
- 23 (1) candidate; or
- 24 (2) ticket of candidates for:
- 25 (A) President and Vice President of the United States; or
- 26 (B) governor and lieutenant governor;
- 27 is independent, must be placed immediately below or beside the name
- 28 of the candidate and must be printed in a uniform size and type.
- 29 (i) All the candidates of the same political party for election to
- 30 at-large seats on the fiscal or legislative body of a political subdivision
- 31 must be grouped together:
- 32 (1) under the name of the office that the candidates are seeking;
- 33 (2) in the order established by subsection (g); and
- 34 (3) within the political party, in alphabetical order according to
- 35 surname.
- 36 A statement reading substantially as follows must be placed
- 37 immediately below the name of the office and above the name of the
- 38 first candidate: "Vote for not more than (insert the number of
- 39 candidates to be elected) candidate(s) of ANY party for this office."
- 40 (j) Candidates for election to at-large seats on the governing body
- 41 of a school corporation must be grouped:
- 42 (1) under the name of the office that the candidates are seeking;



and

(2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office.".

(k) The following information must be placed at the top of the ballot before the first public question is listed:

(1) The cautionary statement described in IC 3-11-2-7.

(2) The instructions described in IC 3-11-2-8 ~~IC 3-11-2-10(d); and IC 3-11-2-10(e);~~ **IC 3-11-2-10(c).**

(l) The ballot must include: ~~a single connectable arrow, circle, oval, or square, or a voting position for voting a straight party or an independent ticket (described in IC 3-11-2-6) by one (+) mark as required by section 14 of this chapter; and the single connectable arrow, circle, oval, or square, or the voting position for casting a straight party or an independent ticket ballot must be identified by:~~

(1) the name of the political party or independent ticket (described in IC 3-11-2-6); and

(2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each political party or independent ticket must be of uniform size and type and arranged in the order established by subsection (g) for listing candidates under each office. ~~The instructions described in IC 3-11-2-10(c) for voting a straight party ticket and~~ The statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot beside or above the names and devices within the voting booth in a location that permits the voter to easily read the instructions.

(m) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a single connectable arrow, a circle, or an oval may be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot card that contains language concerning the public question other than the language authorized by a statute.

(n) The requirements in this section:

(1) do not replace; and

(2) are in addition to;

any other requirements in this title that apply to optical scan ballots.

(o) The procedure described in IC 3-11-2-16 must be used when a ballot does not comply with the requirements imposed by this title or



contains another error or omission that might result in confusion or mistakes by voters.

(p) This subsection applies to an optical scan ballot that does not list:

- (1) the names of ~~political parties~~ or candidates; or
- (2) the text of public questions;

on the face of the ballot. The ballot must be prepared in accordance with this section, except that the ballot must include a numbered circle or oval to refer to each ~~political party~~, candidate or public question.

SECTION 9. IC 3-11-13-14 IS REPEALED [EFFECTIVE JANUARY 1, 2017]. ~~Sec. 14. In partisan elections, the ballot labels must include a voting square or position where a voter may by one (1) mark on each card record a straight party or an independent ticket vote for all the candidates of one (1) political party or the independent ticket, except for offices for which the voter has voted individually for a candidate. If the voter records a vote for the two (2) candidates comprising an independent ticket, the vote must not count for any other independent candidate on the ballot.~~

SECTION 10. IC 3-11-13-31.7, AS AMENDED BY P.L.128-2015, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 31.7. (a) This section is enacted to comply with 52 U.S.C. 21081 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.

(b) After receiving ballot cards, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

- (1) the candidates for whom the voter desires to vote by marking the connectable arrows, circles, ovals, or squares immediately beside:

- (A) the candidates' names; or
- (B) the numbers referring to the candidates; and

- (2) the voter's preference on each public question by marking the connectable arrow, oval, or square beside:

- (A) the word "yes" or "no" under the question; or
- (B) the number referring to the word "yes" or "no" on the ballot.

(c) ~~If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or independent ticket (described in IC 3-11-2-6), the voter may mark:~~

- ~~(1) the circle enclosing the device; or~~
- ~~(2) the connectable arrow, circle, oval, or square described in~~



1 ~~section 11 of this chapter;~~
 2 that designates the candidates of that political party or independent
 3 ticket (described in IC 3-11-2-6). The voter's vote shall then be counted
 4 for all the candidates of that political party or included in the
 5 independent ticket (described in IC 3-11-2-6). However, if the voter
 6 marks the circle, arrow, oval, or square of an independent ticket
 7 (described in IC 3-11-2-6), the vote shall not be counted for any other
 8 independent candidate on the ballot.

9 ~~(d)~~ (c) This subsection applies to a voter casting a ballot on a voting
 10 system that includes features of both an optical scan ballot card voting
 11 system and a direct record electronic voting system. After entering into
 12 a booth used with the voting system, the voter shall indicate the
 13 candidates for whom the voter desires to vote and the voter's preference
 14 on each public question by:

- 15 (1) inserting a paper ballot or an optical scan ballot into the voting
- 16 system; or
- 17 (2) using headphones to listen to a recorded list of ~~political~~
- 18 ~~parties~~, candidates and public questions.

19 ~~(e)~~ (d) A voter using a voting system described in subsection ~~(d)~~ (c)
 20 may indicate the voter's selections by:

- 21 (1) touching a device on or in the squares immediately adjacent
- 22 to the name of a ~~political party~~, candidate or response to a public
- 23 question; or
- 24 (2) indicating the voter's choices by using a sip puff device that
- 25 enables the voter to indicate a choice by inhaling or exhaling.

26 SECTION 11. IC 3-11-14-3.5, AS AMENDED BY P.L.76-2014,
 27 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JANUARY 1, 2017]: Sec. 3.5. (a) Each county election board shall
 29 have the names of all candidates for all elected offices, political party
 30 offices, and public questions printed on ballot labels for use in an
 31 electronic voting system as provided in this chapter.

32 (b) The county may:

- 33 (1) print all offices and public questions on a single ballot label;
- 34 and
- 35 (2) include a ballot variation code to ensure that the proper
- 36 version of a ballot label is used within a precinct.

37 (c) Each type of ballot label must be of uniform size and of the same
 38 quality and color of paper (except as permitted under IC 3-10-1-17).

39 (d) The nominees of a political party or an independent candidate
 40 or independent ticket (described in IC 3-11-2-6) nominated by
 41 petitioners must be listed on the ballot label with the name and device
 42 set forth on the certification or petition. The circle containing the



1 device may be of any size that permits a voter to readily identify the
 2 device. IC 3-11-2-5 applies if the certification or petition does not
 3 include a name or device, or if the same device is selected by two (2)
 4 or more parties or petitioners.

5 (e) The ballot labels must list the offices and public questions on the
 6 general election ballot in the order listed in IC 3-11-2-12,
 7 IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a),
 8 IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and
 9 IC 3-11-2-14(d). Each office and public question may have a separate
 10 screen, or the offices and public questions may be listed in a
 11 continuous column either vertically or horizontally.

12 (f) The name of each office must be printed in a uniform size in bold
 13 type. A statement reading substantially as follows must be placed
 14 immediately below the name of the office and above the name of the
 15 first candidate:

16 (1) "Vote for one (1) only.", if only one (1) candidate is to be
 17 elected to the office.

18 (2) "Vote for not more than (insert the number of candidates to be
 19 elected) candidate(s) for this office.", if more than one (1)
 20 candidate is to be elected to the office.

21 (g) Below the name of the office and the statement required by
 22 subsection (f), the names of the candidates for each office must be
 23 grouped together in the following order:

24 (1) The major political party whose candidate received the highest
 25 number of votes in the county for secretary of state at the last
 26 election is listed first.

27 (2) The major political party whose candidate received the second
 28 highest number of votes in the county for secretary of state is
 29 listed second.

30 (3) All other political parties listed in the order that the parties'
 31 candidates for secretary of state finished in the last election are
 32 listed after the party listed in subdivision (2).

33 (4) If a political party did not have a candidate for secretary of
 34 state in the last election or a nominee is an independent candidate
 35 or independent ticket (described in IC 3-11-2-6), the party or
 36 candidate is listed after the parties described in subdivisions (1),
 37 (2), and (3).

38 (5) If more than one (1) political party or independent candidate
 39 or ticket described in subdivision (4) qualifies to be on the ballot,
 40 the parties, candidates, or tickets are listed in the order in which
 41 the party filed its petition of nomination under IC 3-8-6-12.

42 (6) A space for write-in voting is placed after the candidates listed



in subdivisions (1) through (5), if required by law. A space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

(7) The name of a write-in candidate may not be listed on the ballot.

(h) The names of the candidates grouped in the order established by subsection (g) must be printed in type with uniform capital letters and have a uniform space between each name. The name of the candidate's political party, or the word "Independent", if the:

(1) candidate; or

(2) ticket of candidates for:

(A) President and Vice President of the United States; or

(B) governor and lieutenant governor;

is independent, must be placed immediately below or beside the name of the candidate and must be printed in uniform size and type.

(i) All the candidates of the same political party for election to at-large seats on the fiscal or legislative body of a political subdivision must be grouped together:

(1) under the name of the office that the candidates are seeking;

(2) in the party order established by subsection (g); and

(3) within the political party, in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) of ANY party for this office."

(j) Candidates for election to at-large seats on the governing body of a school corporation must be grouped:

(1) under the name of the office that the candidates are seeking; and

(2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(k) The cautionary statement described in IC 3-11-2-7 must be placed at the top or beginning of the ballot label before the first public question is listed.

(l) The instructions described in IC 3-11-2-8 ~~IC 3-11-2-10(d)~~, and ~~IC 3-11-2-10(e)~~ **IC 3-11-2-10(c)** may be:



(1) placed on the ballot label; or

(2) posted in a location within the voting booth that permits the voter to easily read the instructions.

(m) The ballot label must include: ~~a touch sensitive point or button for voting a straight political party or independent ticket (described in IC 3-11-2-6) by one (1) touch; and the touch sensitive point or button must be identified by:~~

(1) the name of the political party or independent ticket; and

(2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each party or ticket must be of uniform size and type, and arranged in the order established by subsection (g) for listing candidates under each office. ~~The instructions described in IC 3-11-2-10(c) for voting a straight party ticket and~~ The statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot label or in a location within the voting booth that permits the voter to easily read the instructions.

(n) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a touch sensitive point or button must be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot label that contains language concerning the public question other than the language authorized by a statute.

(o) The requirements in this section:

(1) do not replace; and

(2) are in addition to;

any other requirements in this title that apply to ballots for electronic voting systems.

(p) The procedure described in IC 3-11-2-16 must be used when a ballot label does not comply with the requirements imposed by this title or contains another error or omission that might result in confusion or mistakes by voters.

SECTION 12. IC 3-11-14-23, AS AMENDED BY P.L.128-2015, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 23. (a) This section is enacted to comply with 52 U.S.C. 21081 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an electronic voting system.

(b) If a voter is not challenged by a member of the precinct election board, the voter may pass the railing to the side where an electronic voting system is and into the voting booth. There the voter shall



1 register the voter's vote in secret by indicating:

2 (1) the candidates for whom the voter desires to vote by touching
3 a device on or in the squares immediately above the candidates'
4 names;

5 (2) if the voter intends to cast a write-in vote, a write-in vote by
6 touching a device on or in the square immediately below the
7 candidates' names and printing the name of the candidate in the
8 window provided for write-in voting; and

9 (3) the voter's preference on each public question by touching a
10 device above the word "yes" or "no" under the question.

11 ~~(e) If an election is a general or municipal election and a voter~~
12 ~~desires to vote for all the candidates of one (1) political party or group~~
13 ~~of petitioners, the voter may cast a straight party ticket by touching that~~
14 ~~party's device. The voter's vote shall then be counted for all the~~
15 ~~candidates under that name. However, if the voter casts a vote by~~
16 ~~touching the circle of an independent ticket comprised of two (2)~~
17 ~~candidates, the vote shall not be counted for any other independent~~
18 ~~candidate on the ballot.~~

19 ~~(d)~~ (c) As provided by 52 U.S.C. 21081, a voter casting a ballot on
20 an electronic voting system must be:

21 (1) permitted to verify in a private and independent manner the
22 votes selected by the voter before the ballot is cast and counted;

23 (2) provided the opportunity to change the ballot or correct any
24 error in a private and independent manner before the ballot is cast
25 and counted, including the opportunity to receive a replacement
26 ballot if the voter is otherwise unable to change or correct the
27 ballot; and

28 (3) notified before the ballot is cast regarding the effect of casting
29 multiple votes for the office and provided an opportunity to
30 correct the ballot before the ballot is cast and counted.

31 SECTION 13. IC 3-12-1-1, AS AMENDED BY P.L.64-2014,
32 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JANUARY 1, 2017]: Sec. 1. Subject to sections 5, 6, 7, 8, 9, 9.5, and
34 13 of this chapter, the primary factor to be considered in determining
35 a voter's choice on a ballot is the intent of the voter. If the voter's intent
36 can be determined on the ballot or on part of the ballot, the vote shall
37 be counted for the affected candidate or candidates or on the public
38 question. However, if it is impossible to determine a voter's choice of
39 candidates on a part of a ballot or vote on a public question, then the
40 voter's vote concerning those candidates or public questions may not
41 be counted.

42 SECTION 14. IC 3-12-1-7, AS AMENDED BY P.L.164-2006,



1 SECTION 124, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JANUARY 1, 2017]: Sec. 7. (a) This subsection applies
 3 whenever a voter:

- 4 (1) votes a straight party ticket; and
- 5 (2) votes only for one (1) or more individual candidates who are
- 6 all of the same political party as the straight ticket vote.

7 The straight ticket vote shall be counted and the individual candidate
 8 votes may not be counted:

9 (b) This subsection applies whenever:

- 10 (1) a voter has voted a straight party ticket for the candidates of
- 11 one (1) political party;
- 12 (2) only one (1) person may be elected to an office; and
- 13 (3) the voter has voted for one (1) individual candidate for the
- 14 office described in subdivision (2) who is:

15 (A) a candidate of a political party other than the party for
 16 which the voter voted a straight ticket; or

17 (B) an independent candidate for the office:

18 If the voter has voted for one (1) individual candidate for the office
 19 described in subdivision (2); the individual candidate vote for that
 20 office shall be counted; the straight party ticket vote for that office may
 21 not be counted; and the straight party ticket votes for other offices on
 22 the ballot shall be counted:

23 (c) This subsection applies whenever:

- 24 (1) a voter has voted a straight party ticket for the candidates of
- 25 one (1) political party; and
- 26 (2) the voter has voted for more individual candidates for the
- 27 office than the number of persons to be elected to that office.

28 The individual candidate votes for that office may not be counted; the
 29 straight party ticket vote for that office may not be counted; and the
 30 straight party ticket votes for other offices on the ballot shall be
 31 counted:

32 (d) This subsection applies whenever:

- 33 (1) a voter has voted a straight party ticket for the candidates of
- 34 one (1) political party;
- 35 (2) more than one (1) person may be elected to an office; and
- 36 (3) the voter has voted for individual candidates for the office
- 37 described in subdivision (2) who are:

38 (A) independent candidates;

39 (B) candidates of a political party other than the political party
 40 for which the voter cast a straight party ticket under
 41 subdivision (1); or

42 (C) a combination of candidates described in clauses (A) and



(B):

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket votes for the office, is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for the office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(c) This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party;

(2) more than one (1) person may be elected to an office; and

(3) the voter has voted for individual candidates for the office described in subdivision (2) who are:

(A) independent candidates or candidates of a political party other than the political party for which the voter cast a straight party ticket under subdivision (1); and

(B) candidates of the same political party for which the voter cast a straight party ticket under subdivision (1):

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The individual votes cast by the voter for the office for the candidates of the same political party for which the voter cast a straight party ticket may not be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket vote for the office is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for that office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(f) If a voter votes a straight party ticket for more than one (1) political party, the whole ballot is void with regard to all candidates nominated by a political party or designated as independent candidates



on the ballot. However, the voter's vote for a school board candidate or on a public question shall be counted if otherwise valid under this chapter.

(g) (a) If a voter does not vote a straight party ticket and the number of votes cast by that a voter for the candidates for an office are is less than or equal to the number of openings for that office, the individual candidates' votes shall be counted.

(h) (b) If a voter does not vote a straight party ticket and the number of votes cast by that a voter for an office exceeds the number of openings for that office, none of the votes concerning that office may be counted.

SECTION 15. IC 3-12-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 7.5. (a) If a voter votes a straight party ticket for at least one (1) office for which only one (1) person may be elected and writes in the name of a candidate, the straight party ticket vote shall be counted for all offices except the offices for which a write-in vote was cast. The write-in vote shall be counted if the voter's intent can be determined.

(b) If a voter votes a straight party ticket for an office for which at least two (2) people may be elected and writes in the name of a candidate, the straight party vote for that office may not be counted unless:

(1) fewer candidates appear on the party's ticket than may be elected; and

(2) the voter has not written in a number of names that, when added to the straight party candidate's name, would be greater than the number of seats available for that office.

(c) (a) If a voter votes for one (1) individual candidate for an office for which only one (1) person may be elected and also writes in the name of another candidate for the same office, neither vote may be counted.

(d) (b) If a voter votes for at least one (1) individual candidate for an office for which at least two (2) people may be elected and also writes in the name of at least one (1) candidate, the vote for that office may not be counted unless the number of individual votes cast for the office, when added to the number of write-in votes cast for that office, is less than or equal to the number of seats available for that office.

(e) If a voter votes an individual or a straight party vote for a candidate for an office and also writes in the name of the same candidate for the same office, only one (1) vote for that candidate may be counted.

SECTION 16. IC 3-12-1-8 IS REPEALED [EFFECTIVE



JANUARY 1, 2017]. Sec. 8: A voting mark made by a voter on or in a circle containing a political party device shall be counted as a vote for each candidate of that political party on that ballot.

SECTION 17. IC 3-12-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 14. (a) This section does not apply to a vote

(1) cast for President or Vice President of the United States under IC 3-10-4-6. or

(2) described by section 15 of this chapter.

(b) A vote cast for a candidate who ceases to be a candidate may not be counted as a vote for a successor candidate selected under IC 3-13-1 or IC 3-13-2.

SECTION 18. IC 3-12-1-15 IS REPEALED [EFFECTIVE JANUARY 1, 2017]. Sec. 15: (a) This section applies to a vote cast for one (1) straight party ticket that includes a candidate for election to office who:

(1) ceases to be a candidate; and

(2) is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2.

(b) A vote cast in the election for the original nominee is considered a vote cast for the successor.

SECTION 19. IC 3-13-5-0.1, AS ADDED BY P.L.164-2006, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 0.1. (a) This chapter applies only to a vacancy in a legislative office that was last held by a person elected or selected as a candidate of a major political party of the state.

(b) A vacancy in a legislative office that was last held by a person elected or selected as a candidate of a political party described by IC 3-8-4-10 shall be filled by the state committee of the political party. The state chairman of the party shall certify the selection of an individual to fill the vacancy in the manner prescribed under section 6 of this chapter.

(c) A vacancy in a legislative office that was last held by a person not described in subsection (a) or (b) shall be filled by a special election held as provided in IC 3-10-8; only if IC 3-13-5.5 provides for the vacancy to be filled under this chapter.

SECTION 20. IC 3-13-5-1, AS AMENDED BY P.L.119-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) A vacancy in a legislative office shall may be filled by a caucus comprised of the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the person who held the



1 vacated seat.

2 (b) Not later than thirty (30) days after the vacancy occurs (or as
3 provided in subsections (c) and (d)), the caucus shall meet and:

4 (1) select a ~~person~~ **an individual** to fill the vacancy; **or**

5 (2) **determine not to fill the vacancy.**

6 **An action described by this subsection must be taken** by a majority
7 vote of those casting a vote, ~~for a candidate~~, including vice
8 committeemen eligible to vote as a proxy under section 5 of this
9 chapter.

10 (c) A state chairman may give notice of a caucus before the time
11 specified under subsection (b) if a vacancy will exist because the
12 official has:

13 (1) submitted a written resignation under IC 5-8-3.5 that has not
14 yet taken effect; or

15 (2) been elected to another office.

16 (d) If a vacancy in a legislative office exists because of the death of
17 the legislator, the caucus shall meet and ~~select a person to fill the~~
18 ~~vacancy act under this chapter~~ not later than thirty (30) days after the
19 state chairman receives notice of the death of the legislator from the
20 secretary of state under IC 5-8-6.

21 (e) Notwithstanding IC 5-8-4, a ~~person may not withdraw the~~
22 ~~person's~~ resignation **may not be withdrawn** after the resignation has
23 been accepted by the person authorized to accept the resignation less
24 than seventy-two (72) hours before the announced starting time of the
25 caucus under this chapter.

26 (f) The ~~person~~ **individual** selected **to fill the vacancy** must reside
27 in the district where the vacancy occurred.

28 SECTION 21. IC 3-13-5-3, AS AMENDED BY P.L.123-2015,
29 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2016]: Sec. 3. (a) The state chairman or a person designated
31 by the state chairman shall preside over a caucus meeting held under
32 this chapter.

33 (b) A person who desires to be a candidate to fill a vacancy under
34 this chapter must file:

35 (1) a declaration of candidacy with the chairman of the caucus;
36 and

37 (2) a statement of economic interests under IC 2-2.2-2 with the
38 secretary of the senate or principal clerk of the house of
39 representatives;

40 at least seventy-two (72) hours before the time fixed for the caucus.

41 (c) In addition to the procedures prescribed by this chapter, the
42 chairman and precinct committeemen may adopt rules of procedure



that are necessary to conduct business.

(d) After adoption of any rules of procedure, the caucus shall determine whether to fill the vacancy in the legislative office. A determination by the caucus not to fill the vacancy is final and conclusive.

SECTION 22. IC 3-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Except as provided in this section, voting by proxy is not allowed in a caucus held under this chapter.

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a legislative office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the ~~ballot~~ vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ~~ballot~~ vacancy occurred.

(e) Voting shall be conducted by secret ballot, and IC 5-14-1.5-3(b) does not apply to this chapter.

SECTION 23. IC 3-13-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. **(a) As used in this section, "presiding officer" refers to the following:**

(1) With respect to a vacancy in the house of representatives of the general assembly, the speaker of the house.

(2) With respect to a vacancy in the senate of the general assembly, the president pro tempore of the senate.

(b) The state chairman shall certify the following to the presiding officer:

(1) If the caucus determined to fill the vacancy, the name of the



person **individual** selected under ~~section 1~~ of this chapter. ~~to the president pro tempore of the senate or the speaker of the house of representatives; as appropriate; who~~

(2) If the caucus determined not to fill the vacancy, that fact.

(c) The presiding officer shall acknowledge receipt of the certification **and** submit a copy of the certificate to be included in the journal of the house or senate:

(1) of the day when the individual is seated, **if:**

(A) the caucus filled the vacancy; and

(B) the general assembly is in session on that day; or

(2) if the certificate is received after the adjournment sine die of the general assembly; of the first day that the chamber is in session following receipt of the certificate **and if subdivision (1) does not apply.**

(d) The presiding officer shall then immediately forward the certificate to the secretary of state.

SECTION 24. IC 3-13-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. The secretary of state shall, within fourteen (14) days after receipt of the certification under section 6 of this chapter, certify:

(1) the person individual selected to fill the vacated seat; **or**

(2) that the vacancy was not to be filled.

SECTION 25. IC 3-13-5-9 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 9: If a house of the general assembly determines that a person should not be seated as a member of that house because that person was ineligible to hold the seat for which a certificate of election has been issued by the secretary of state, the seat shall be filled under this chapter. A person selected to fill a vacant seat under this section must meet all requirements set forth in Article 4, Section 7 of the Constitution of the State of Indiana as of the date of the general election for which the ineligible person who was not seated received a certificate of election:

SECTION 26. IC 3-13-5-10 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 10: The person who last held a vacated legislative office may not be a candidate for selection to fill a vacancy in that office under this chapter for the remainder of the term.

SECTION 27. IC 3-13-5.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 5.5. Vacancies in Legislative Offices

Sec. 1. This chapter applies only to a vacancy in a legislative office.



1 **Sec. 2.** As used in this chapter, "end of the legislative term"
2 refers to the period in the term of a legislative office:

3 (1) beginning three hundred sixty-five (365) days before the
4 next election for the legislative office; and

5 (2) ending on election day of the next election for the
6 legislative office.

7 **Sec. 3.** (a) This section applies only if the vacancy does not occur
8 during the end of the legislative term.

9 (b) The vacancy in the legislative office shall be filled by a
10 special election held as provided in IC 3-10-8.

11 **Sec. 4.** (a) This section applies only if a vacancy in a legislative
12 office occurs during the end of the legislative term.

13 (b) If the vacancy is in a legislative office that was last held by
14 an individual elected or selected as a candidate of a major political
15 party of the state, the vacancy may be filled as provided in
16 IC 3-13-5. However, the caucus meeting under IC 3-13-5 may, in
17 its discretion, determine not to fill the vacancy for the remainder
18 of the term.

19 (c) If the vacancy is in a legislative office that was last held by a
20 person elected or selected as a candidate of a political party
21 described by IC 3-8-4-10, the vacancy must be filled by the state
22 committee of the political party. However, the state committee of
23 the political party may, in its discretion, determine not to fill the
24 vacancy for the remainder of the term. In either case, the state
25 chairman of the party shall certify the:

26 (1) selection of an individual to fill the vacancy; or

27 (2) decision not to fill the vacancy;

28 in the manner prescribed under IC 3-13-5-6.

29 (d) If the vacancy is in a legislative office last held by an
30 individual not described in subsection (b) or (c), the vacancy shall
31 not be filled for the remainder of the term.

32 **Sec. 5.** (a) If a house of the general assembly determines that an
33 individual should not be seated as a member of that house because
34 that individual was ineligible to hold the seat for which a certificate
35 of election has been issued by the secretary of state, the seat shall
36 be filled as provided in this chapter.

37 (b) An individual selected to fill a vacant seat under this section
38 must meet all requirements set forth in Article 4, Section 7 of the
39 Constitution of the State of Indiana as of the date of the general
40 election for which the ineligible individual who was not seated
41 received a certificate of election.

42 **Sec. 6.** The individual who last held a vacated legislative office



- 1 **may not be a candidate to fill a vacancy in that office under this**
2 **chapter for the remainder of the term.**

